

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

FIRST BANK PUERTO RICO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal No. 2008-28
	)	
RONALD S. LOCKHART and UNITED	)	
STATES OF AMERICA INTERNAL REVENUE	)	
SERVICE,	)	
	)	
Defendants.	)	
_____	)	

ATTORNEYS:

Carol Ann Rich, Esq.  
St. Thomas, U.S.V.I.  
*For the plaintiff,*

Timothy J. Abraham, AUSA  
St. Thomas, U.S.V.I.  
*For the United States of America,*

Ronald S. Lockhart  
8A Estate Catherineberg, St. Thomas, U.S.V.I. 00802  
*Pro se defendant.*

ORDER

GOMÉZ, C.J.

Before the Court are the motions of Firstbank Puerto Rico ("Firstbank") for reconsideration of this Court's May 20, 2009, Orders denying Firstbank's motion for default judgment against Ronald S. Lockhart ("Lockhart"), and for summary judgment against the United States of America Internal Revenue Service ("IRS").

Local Rule of Civil Procedure 7.3 ("Local Rule 7.3")

provides:

A party may file a motion asking the court to reconsider its order or decision. . . . A motion to reconsider shall be based on:

1. Intervening change in controlling law;
2. Availability of new evidence, or;
3. The need to correct clear error or prevent manifest injustice

LRCi 7.3 (2008). The purpose of a motion for reconsideration "is to correct manifest errors of law or fact or to present newly discovered evidence." *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985). Such motions are not substitutes for appeals, and are not to be used as "a vehicle for registering disagreement with the court's initial decision, for rearguing matters already addressed by the court, or for raising arguments that could have been raised before but were not." *Bostic v. AT&T of the V.I.*, 312 F. Supp. 2d 731, 733 (D.V.I. 2004).

Here, Firstbank argues that reconsideration is appropriate in order to correct clear error or prevent manifest injustice. However, Firstbank has failed to point to any error in the May 20, 2009, Orders. Firstbank has also failed to set forth any facts that would support the inference of manifest injustice. Rather, Firstbank directs the Court to an affidavit of Carol Ann Rich,

Esquire, dated May 29, 2009, which it submitted as an exhibit to the reconsideration motions. In her affidavit, Attorney Rich avers that, Lockhart, "to the best of my knowledge and belief, is not an infant or incompetent person." (Ex. 1 to Mot. for Reconsideration, Rich Aff. 1, ¶ 3, May 29, 2009.) She further states that Lockhart, "to the best of my knowledge and belief, is not in the military service." (*Id.* at 1, ¶ 4.) While Attorney Rich's affidavit refers to an exhibit as support for its statement regarding whether Lockhart is in the military, none is attached. Nothing in Attorney Rich's affidavit reveals any error or injustice in either of the May 20, 2009 Orders. The Court also notes that Firstbank has not argued or shown that Attorney Rich's affidavit should be considered newly available evidence within the meaning of Local Rule 7.3.

Furthermore, the affidavit that Firstbank has submitted is not based on Attorney Rich's personal knowledge that Lockhart is not an infant, incompetent, or serving in the military. As such, it cannot be considered competent evidence for default or summary judgment purposes. *See, e.g., Maldonado v. Ramirez*, 757 F.2d 48, 50 (3d Cir. 1985) (explaining that, to be sufficient, an affidavit "must be made 'on personal knowledge,' must set forth 'such facts as would be admissible in evidence' and must 'show affirmatively that the affiant is competent to testify to the

matters stated therein'"); *Klinestiver v. Drug Enforcement Administration*, 606 F.2d 1128, 1129 (D.C. Cir. 1979) ("Competent evidence is . . . synonymous with 'admissible.'").

Finally, even if Attorney Rich's affidavit were competent evidence, it is unclear how the information contained therein would support reconsideration of this Court's order denying Firstbank's motion for summary judgment against the IRS.

Accordingly, it is hereby

**ORDERED** that the motions for reconsideration are **DENIED**.

S\\_\_\_\_\_  
CURTIS V. GÓMEZ  
Chief Judge